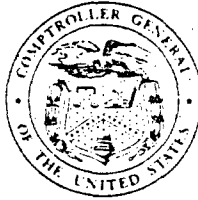


DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-182254

DATE: December 9, 1975

MATTER OF: West Electronics, Inc.

DIGEST:

Where procuring activity, during negotiations, determines to furnish certain test equipment as Government-furnished equipment rather than having contractor furnish it as originally required in RFP and so advises offerors remaining in competitive range, such action was proper under ASPR § 3-805.4 and allegation that such change constituted major revision of solicitation requiring cancellation of RFP and resolicitation is without merit.

On April 3, 1974, the United States Air Force issued request for proposals (RFP) No. F09603-74-R-0942 for 88 type PP4506/A power supplies.

West Electronics, Inc. (West), protested to our Office a finding by the contracting officer that West was nonresponsible. On January 22, 1975, in decision B-182254, we denied the protest, finding that the contracting officer had acted in accordance with the applicable regulations.

On August 27, 1975, West filed a new protest with our Office contending that the contract awarded to Centroid, Inc., on that day differed so materially from the original RFP, that the solicitation should have been canceled and resolicited under a new RFP incorporating the changes made in the requirements during negotiations.

The record before our Office shows that during the preaward survey on the low offeror (following the elimination of West from consideration), it was determined by the procurement personnel to furnish eight PS-1037-3C power supplies as Government-furnished equipment (GFE). These units are used with PP4506/A power supplies being procured during the preproduction, production acceptance and production reliability tests required under the RFP and were originally to be contractor furnished. The reason for this change was that the Air Force believed it would result in more reliable testing.

Accordingly, in its request for best and final offers dated June 11, 1975, the Air Force advised the three remaining offerors in the competitive range of the change in the requirements and the contract awarded to Centroid reflected the change.

West argues that the furnishing of the power supplies as GFE was such a material alteration to the requirement that under Armed Services Procurement Regulation (ASPR) § 3-805.4(b) (1974 ed.), it required cancellation of the RFP and the issuance of a new solicitation to all offerors. West states that under the RFP, as issued, 10 percent of an offeror's price would have been for the purchase of these test units and that this shows the substantial nature of the change.

The Air Force responds by stating that none of the three offerors revised their prices after the change was made and that the change was not substantial as contemplated by ASPR § 3-805.4(b). West answers the argument of no price change by stating that (1) a year had passed since proposals were originally submitted and due to inflation the 10 percent price decrease was absorbed by other cost increases; or (2) the offerors had not made adequate allowance for the test units; or (3) the offerors saw an opportunity for additional profits.

ASPR § 3-805.4(a) and (b) reads in pertinent part as follows:

"3-805.4 Changes in Government Requirements.

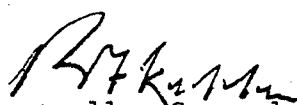
(a) When, either before or after receipt of proposals, changes occur in the Government's requirements or a decision is made to relax, increase or otherwise modify the scope of the work or statement of requirements, such change or modification shall be made in writing as an amendment to the solicitation. * * *

(b) The stage in the procurement cycle at which the changes occur and the magnitude of the changes shall govern which firms should be notified of the changes. If proposals are not yet due, the amendment should normally be sent to all firms solicited. If the time for receipt of proposals has passed but proposals

have not yet been evaluated, the amendment should normally be sent only to the responding offerors. If the competitive range has been established, only those offerors within the competitive range should be sent the amendment. However, no matter what stage the procurement is in, if a change or modification is so substantial as to warrant complete revision of a solicitation, the original should be cancelled and a new solicitation issued. In such cases, the new solicitation should be issued to all firms originally solicited, any firms added to the original mailing list and any other qualified firms."

The change did not affect the configuration of the end product but only which party would bear the cost of the test equipment, the Government or the contractor. The method of testing remained the same. The only change in the offeror's proposal would have been a reduction in price. In these circumstances, we view the change as one which could correctly be handled by an amendment to the solicitation issued to those offerors within the competitive range at the time of the change since it was not so substantial as to require complete revision and the issuance of a new solicitation. It should also be noted that the furnishing of the power supplies, whether by the Government or the contractor, had no bearing on West's negative responsibility determination.

Accordingly, the protest of West is denied.


Deputy Comptroller General
of the United States